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EXAMINER
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte ARMIN W. KITTEL

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Appeal 2015-005589
Application 12/411,592[1]
Technology Center 2400

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Before ERIC S. FRAHM, CARL L. SILVERMAN, and
JOHN D. HAMANN, *Administrative Patent Judges.*

SILVERMAN, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's

Final Rejection of claims 1–15 and 21–25, which are the only claims

pending. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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[1] The real party in interest is identified as Verizon Communications Inc.
App. Br. 3.

STATEMENT OF THE CASE

The invention relates to digital rights management in a peer-to-peer environment. Abstract; Spec. ¶¶ 1, 2. Claim 1, reproduced below, is exemplary of the subject matter on appeal (disputed limitations emphasized):

> 1.   A method performed by one or more servers within a subscription multimedia network that provides a delivery channel between a source media client and a requesting media client, the method comprising:
>
> receiving, by the one or more servers and from the source media client, a content reference of digital content available on a source peer device for sharing with the requesting media client associated with a requesting peer device,
>
> the content reference including digital rights management restrictions and a unique identifier for the source media client, and the source media client being associated with the source peer device;
>
> broadcasting, by the one or more servers and to the requesting media client, the content reference of digital content available on the source peer device within the subscription multimedia network;
>
> receiving, by the one or more servers and from the requesting media client using the subscription multimedia network, a selection of the content reference, the selection being initiated by the requesting media client of the requesting peer device;
>
> obtaining, by the one or more servers and based on the received selection of the content reference, credentials of the requesting media client;
>
> determining, by the one or more servers, whether the credentials are acceptable for receiving the digital content based on the digital rights management restrictions; and
>
> providing, by the one or more servers and to the requesting media client using the subscription multimedia network, a decryption key for presentation of the digital content on the requesting peer device when the credentials are acceptable,

the requesting media client, *after receiving the
decryption key, establishing a peer-to-peer connection* with the
source media client, the peer-to-peer connection allowing the
source media client to directly provide the digital content to the
requesting media client over the peer-to-peer connection, and
*the digital content being received by the requesting media client
without using the one or more servers,*
the received digital content being decrypted by the requesting
media client using the decryption key to create decrypted digital
content.

App. Br. 17–18 (Claims Appendix).

THE REJECTIONS

Claims 1–6, 8–15, and 21–25 stand rejected under 35 U.S.C. § 103(a)
as being unpatentable over Ikeda (US 2006/0059248 A1, published Mar. 16,
2006) and Stevens (US 20070083475 A1, published Apr. 12, 2007) in view
of Wajs (US 2009/0193525 A1, published July 30, 2009). Final Act. 4–12.

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being
unpatentable over Ikeda, Stevens, and Matsuraba et al. (US 7,769,881 B2,
issued Aug 3, 2010) ("Matsuraba"). Final Act. 13.

ANALYSIS

Appellant argues the Examiner errs in finding Wajs teaches the claim
1 limitation:

[T]he requesting media client, *after receiving the decryption
key, establishing a peer-to-peer connection* with the source
media client, the peer-to-peer connection allowing the source
media client to directly provide the digital content to the
requesting media client over the peer-to-peer connection, and
*the digital content being received by the requesting media client
without using the one or more servers,* the received digital

content being decrypted by the requesting media client using
the decryption key to create decrypted digital content.

App. Br. 11–14; Reply Br. 2–7.

According to Appellant, Wajs does not teach *after receiving the
decryption key, establishing a peer-to-peer connection* and *the digital
content being received by the requesting media client without using the one
or more servers*. In particular, Appellant argues while Wajs teaches a
decryption key and establishing a peer-to-peer connection, the Examiner
provides insufficient evidence Wajs teaches establishing the peer-to-peer
connection *after* receiving the decryption key. App. Br. 11–14 (citing Wajs
¶¶ 13, 40–44); Reply Br. 2–7 (citing Wajs ¶¶ 36, 37, 39, 40–44, 60, 61).
Regarding *without using the one or more servers,* Appellant argues Wajs'
server system "is clearly used to provide content to first client 7, second
client 8, and third client 9." App. Br. 13 (citing Wajs ¶¶ 40–44).

The Examiner finds Wajs' "clients receive decryption keys and
identifiers" wherein "[t]he identifiers are used in order to establish a
connection . . . from between clients in a peer-to peer fashion." Ans. 5
(citing Wajs ¶¶ 43–44, Abstract). The Examiner finds the client first
receives the decryption keys and the identifiers and "[t]he received
identifiers are subsequently used in order to establish a peer-to-peer
connection for downloading content." *Id.*

In addition, the Examiner finds the order of operations is an obvious
matter of design choice because "Wajs teaches both receiving decryption
keys as well as establishing peer-to-peer connections and in the illustrative

method as depicted in at least figs. 7–8 the reference explicitly states that '[t]he steps are not necessarily performed in the given order' and that the order of steps can be different from those shown in the figure." Ans. 6 (citing Wajs ¶¶ 59–60, Figs. 7, 8).

In response to the Examiner's Answer, Appellant argues Wajs's discussion of the order of operations is limited to the order of operation of the steps set forth in Figure 7 as described in paragraph 59 and "[t]his passage is not a blanket passage that can be applied to any order of operations and used to support a position that any order can be modified, with no teaching or suggestion, to achieve an obvious 'matter of design choice.'" Reply Br. 7. According to Appellant, "the Examiner is misapplying the disclosure of WAJS to support a position that is not disclosed in WAJS." *Id.*

We are not persuaded by Appellant's arguments and agree, instead, with the Examiner's findings above. Appellant provides no persuasive evidence the Examiner's findings are unreasonable. In addition, Wajs teaches using decryption keys and establishing peer-to-peer connections and Appellant presents no persuasive evidence that the order is more than a matter of design choice. In this connection, the order can be establishing the peer-to-peer connection *after/prior to/simultaneous with* receiving the decryption key. The specific order selected provides performance benefits, for example, establishing the peer-to-peer connection *after* receiving the decryption key employs the peer-to-peer connection only when needed and may reduce use of the peer-to-peer connection. Or, establishing the peer-to-

peer connection *prior to* receiving the decryption key may speed up the receiving client's access to the requested digital content.

Regarding *the digital content being received by the requesting media client without using the one or more servers,* the Examiner finds:

> Appellant's argument relies upon various portions of the reference detailing functions of the server. Appellant's arguments are not commensurate with the scope of the claim. For example, the claim language only requires the content to be received without the use of a server. The claim language fails to extend any restriction applied to the server beyond the receiving function.
>
> Wajs teaches exchanging digital content via peer-to-peer connections (Wajs, Title, abstract, ¶¶ 36-37). A peer-to-peer connection is a connection in which data is received and/or transmitted between two peer devices. In a peer-to-peer connection the clients obtain file segments from other clients, i.e. without using one or more servers (Wajs, ¶ 36, see also ¶ 39: "when the number of active clients is large enough, all segments will be available from at least one client, and clients will have no need to get segments directly from the server").
>
> A peer-to-peer transfer as in the reference does not involve a server in the receiving function as the reception and transfer of data is between two peer devices only. Accordingly, appellant's arguments should not be held persuasive in this regard.

Ans. 4.

We are not persuaded by Appellant's arguments and agree, instead, with the Examiner's findings above.

In view of the above, we sustain the rejection of claim 1, and independent claims 10 and 21 which recite similar features and are argued together with claim 1. App. Br. 14. We also sustain the rejection of

dependent claims 2–6, 8, 9, 11–15, and 22–25 as these claims are not argued separately. *See* 37 C.F.R. § 41.37(c)(1)(iv).

<div align="center">DECISION</div>

We affirm the Examiner's decision rejecting claims 1–15 and 21–25 under 35 U.S.C. § 103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

<div align="center">AFFIRMED</div>